

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

AMERICAN CIVIL LIBERTIES UNION, et al.

Plaintiffs,

v.

ALBERTO R. GONZALES, in his official capacity as
ATTORNEY GENERAL OF THE UNITED STATES

Defendant.

Civil Action No.
98-CV-5591

DECLARATION OF JEROEN VAN KWAWEGEN

I, Jeroen van Kwawegen, do hereby state and declare as follows:

1. I am counsel to Plaintiffs in *ACLU, et al. v. Attorney General Alberto R. Gonzales* (Docket # 02:98-CV-05591-LR). I submit this declaration pursuant to Rule 26.1(f) of the Rules of Civil Procedure of the United States District Court for the Eastern District of Pennsylvania.
2. On January 10, 2006, Plaintiffs served on Defendant a notice of deposition pursuant to Federal Rule of Civil Procedure 30(b)(6).
3. On February 27, 2006, Defendant filed a Motion to Quash Plaintiffs' Notice of Deposition Pursuant to Rule 30(b)(6), or, in the Alternative, for Protective Order.
4. On March 3, 2006, Plaintiffs filed a Memorandum in Opposition to Defendant's Motion to Quash Plaintiffs' Notice of Deposition.
5. On March 10, 2006, Defendant filed a Reply in Support of Motion to Quash Plaintiffs' Notice of Deposition Pursuant to Rule 30(b)(6), or in the Alternative, for Protective Order.

6. On March 22, 2006, the Court heard oral argument regarding Defendant's Motion to Quash Plaintiffs' Notice of Deposition Pursuant to Rule 30(b)(6), or, in the Alternative, for Protective Order.
7. On March 23, 2006, the Court granted Defendant's motion and ordered that Plaintiffs' inquiry regarding the topics raised in the January 10, 2006 notice of deposition shall be limited at this time to contention interrogatories and an inquiry whether such rationales, practices, policies or internal rules exist or existed at an appropriate time in the past.
8. On April 17, 2006, Plaintiffs served on Defendant Plaintiffs American Civil Liberties Union's First Set of Contention Interrogatories To Alberto R. Gonzales, in His Capacity as Attorney General of the United States.
9. On May 22, 2006, Defendant served on Plaintiffs Defendant's Objections and Responses to Plaintiffs' First Set of Contention Interrogatories.
10. On May 31, 2006, Plaintiffs sent a letter to Defendant proposing a telephone conference to discuss disputes regarding the requested disclosures.
11. On June 1, 2006, Defendant sent a letter to Plaintiffs requesting a response in writing addressing Defendant's objections before a telephone conference is appropriate.
12. On June 1, 2006, Plaintiffs sent a letter to Defendant addressing Defendant's most frequently stated objections.
13. On June 1, 2006, Defendant sent a letter to Plaintiffs indicating that Defendant would retain the services of a court reporter to assist during the telephone conference.
14. On June 2, 2006 Plaintiffs and Defendant had a telephone conference which failed to resolve the disputes regarding the requested disclosures.

15. On June 9, 2006, Plaintiffs sent a letter to the Court and Defendant to bring significant discovery disputes to the Court's attention, and to request a discovery conference in Chambers at the Court's earliest convenience, pursuant to Paragraph 3 of Pretrial Order No. 15.
16. On June 13, 2006, Plaintiffs' June 9, 2006 letter was filed as Plaintiffs' Motion to Compel Responses to Contention Interrogatories.
17. On June 21, 2006, Defendant filed Defendant's Opposition to Plaintiffs' Motion to Compel Response to Contention Interrogatories.

I hereby certify, pursuant to Rule of Civil Procedure 26.1(f) of the United States District Court for the Eastern District of Pennsylvania, that the parties in this action are unable, after reasonable effort, to resolve this dispute.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct based on my information and belief.

Dated: New York, New York
June 28, 2006

LATHAM & WATKINS LLP

By /s/ Jeroen van Kwawegen
Jeroen van Kwawegen

885 Third Avenue, Suite 1000
New York, New York 10022
Tel.: (212) 906-1200
Fax: (212) 751-4864

Of Counsel to Plaintiffs American Civil Liberties Union Foundation, et al.